

Application No. 09/849,437
Amendment under 37 CFR 1.111
Reply to Office Action dated May 12, 2004
November 12, 2004

REMARKS

By this amendment, claims 2, 5, 9, and 12 have been amended. Currently, claims 2-3, 5-6, and 9-12 are pending in the application.

Examiner Miller is thanked for the courtesies extended to the undersigned during the recent telephone conference regarding this application. During the telephone conference, the undersigned pointed out that claims 1, 4, 7 and 8 had been cancelled by the previous amendment and yet they had been rejected again in the present non-final office action. Examiner Miller indicated that these claims had been rejected in error as the office action was based on the previously pending claims. The undersigned also discussed that the limitation in claims 11 and 12 regarding the position of the headstock opening and closing the chip collecting opening was not present in any of the prior art of record. The undersigned indicated applicants' intention to amend independent claims 2, 5 and 9 to include this feature that was present in claims 11 and 12. Examiner Miller

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indicated that this seemed like a reasonable approach to define over the prior art of record.

By the present non-final office action, the Examiner stated that claims 1, 4, 7 and 8 were rejected under 35 USC 102(b) as being anticipated by Rollier (U.S. Patent No. 5,667,432). This rejection is moot in view of the previous amendments to the claims as discussed with the Examiner.

The Examiner rejected claims 1-12 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Patent No. 6,609,448.

Applicants hereby submit a Terminal Disclaimer to obviate the double patenting rejection over U.S. Patent No. 6,609,448. It is respectfully submitted that this rejection is now moot and should be withdrawn.

The Examiner also rejected claims 2, 3, 5, 6, and 9-12 under 35 USC 103(a) as being obvious over Rollier in view of Romi (U.S. Patent No. 4,545,271) or Frank et al. (U.S. Patent No. 4,597,144). This rejection is respectfully traversed in view of the amendments to claims 2, 5 and 9.

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As discussed with the Examiner, claims 11 and 12 include the feature that the chip collecting opening is disposed in the fixed bed between the respective carriages and the headstock and is open when the headstock is positioned in the workpiece machining position and is closed when the headstock is positioned in the workpiece loading and unloading position. As the Examiner agreed, this feature is not shown or suggested in Rollier, Romi or Frank et al. By this amendment, claims 2, 5 and 9 have all been amended in a similar fashion to recite a chip collecting opening in said fixed bed adjacent to said at least one carriage and said headstock when said headstock is positioned in the workpiece machining position and being open when said headstock is positioned in the workpiece machining position and being closed when said headstock is positioned in the workpiece loading and unloading position. Accordingly, claims 2, 5 and 9 are also submitted to be allowable over the prior art of record.

Applicants respectfully submit that the application is now in condition for allowance and an action to this effect is respectfully requested.

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If there are any questions or concerns regarding the amendments or these remarks, the Examiner is requested to telephone the undersigned at the telephone number listed below.

Respectfully submitted,



Randolph A. Smith
Reg. No. 32,548

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SMITH PATENT OFFICE
1901 Pennsylvania Ave., N.W.
Suite 200
Washington, DC 20006-3433
Telephone: 202/530-5900
Facsimile: 202/530-5902
Nakaminami11204